IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6954 of 2007()

[CRIME NO.282/2002 OF MEDICAL COLLEGE POLICE STATION,KOZHIKODE]

: PETITIONER/ACCUSED

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1. SELVAN, S/O.GOPALAN,
   AGED 49 YEARS, VANIATHARA,
   VENGODI, ELAPPULLY, PALAKKAD.

2. MAHESWARI, W/O.SELVAN,
   AGED 45 YEARS, VANIATHARA, VENGODI,
   ELAPPULLY, PALAKKAD.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
S.I. OF POLICE, MEDICAL COLLEGE POLICE
STATION, KOZHIKODE, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6954 of 2007

Dated this the 14th day of November 2007

O R D E R

Application for anticipatory bail. The petitioners - spouses face indictment in a prosecution for offences punishable inter alia under Section 294(b) I.P.C. All offences are bailable, it is submitted. The alleged incident took place in 2002. Cognizance was taken in 2003 as can be seen from the number of the case C.C.No.111/03. The petitioners were not available. Therefore, the case was transferred to the list of long pending cases in 2004. The petitioners have not entered appearance so far. Coercive processes have been issued by the learned Magistrate. The petitioners find such processes chasing them.

2. According to them, they were not served with summons and that is why they could not enter appearance earlier. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under

Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007